

REFERENCE TITLE: restoration; rights; judicial officers; fee

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

HB 2182

Introduced by
Representative Konopnicki

AN ACT

AMENDING SECTIONS 12-284.03, 13-905, 13-906, 13-908, 13-909, 13-910, 13-911 AND 13-912.01, ARIZONA REVISED STATUTES; AMENDING TITLE 12, CHAPTER 9, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-912.02; RELATING TO RESTORATION OF RIGHTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 12-284.03, Arizona Revised Statutes, is amended to
3 read:

4 12-284.03. Distribution of fees

5 A. Excluding the monies that are kept by the court pursuant to
6 subsection B of this section, the county treasurer shall transmit, distribute
7 or deposit all monies received from the clerk of the superior court pursuant
8 to section 12-284, subsection K AND SECTION 13-912.02 as follows:

9 1. 1.31 per cent to the state treasurer for deposit in the drug and
10 gang enforcement account established by section 41-2402 for the purposes of
11 section 41-2402, subsection H.

12 2. 8.87 per cent to the state treasurer for deposit in the domestic
13 violence shelter fund established by section 36-3002.

14 3. 1.93 per cent to the state treasurer for deposit in the child abuse
15 prevention fund established by section 8-550.01.

16 4. In the county law library fund established by section 12-305,
17 either:

18 (a) 7.62 per cent if the county treasurer is serving in a county with
19 a population of more than five hundred thousand persons ~~according to the most~~
20 ~~recent United States decennial census.~~

21 (b) 15.30 per cent if the county treasurer is serving in a county with
22 a population of five hundred thousand persons or less ~~according to the most~~
23 ~~recent United States decennial census.~~

24 5. 0.35 per cent to the state treasurer for deposit in the alternative
25 dispute resolution fund established by section 12-135.

26 6. To the elected officials' retirement plan fund established by
27 section 38-802, either of the following percentages, which shall be
28 distributed to the fund pursuant to section 38-810:

29 (a) 23.79 per cent if the county treasurer is serving in a county with
30 a population of more than five hundred thousand persons ~~according to the most~~
31 ~~recent United States decennial census.~~

32 (b) 15.30 per cent if the county treasurer is serving in a county with
33 a population of five hundred thousand persons or less ~~according to the most~~
34 ~~recent United States decennial census.~~

35 7. 17.07 per cent to the state treasurer for deposit in the judicial
36 collection enhancement fund established by section 12-113.

37 8. 0.26 per cent to the state treasurer for deposit in the
38 confidential intermediary and fiduciary fund established by section 8-135.

39 9. In the county general fund, the following percentages:

40 (a) 31.29 per cent if the county treasurer is serving in a county with
41 a population of more than five hundred thousand persons ~~according to the most~~
42 ~~recent United States decennial census.~~

43 (b) 32.10 per cent if the county treasurer is serving in a county with
44 a population of five hundred thousand persons or less ~~according to the most~~
45 ~~recent United States decennial census.~~

1 B. 7.51 per cent of the monies transmitted, distributed or deposited
 2 pursuant to subsection A of this section shall be kept and used by the court
 3 collecting the fees in the same manner as the seven dollars of the time
 4 payment fee prescribed by section 12-116, subsection B.

5 Sec. 2. Section 13-905, Arizona Revised Statutes, is amended to read:

6 13-905. Restoration of civil rights: persons completing
 7 probation

8 A. A person who has been convicted of two or more felonies and whose
 9 period of probation has been completed may have any civil rights ~~which~~ THAT
 10 were lost or suspended by the felony conviction restored by the ~~judge who~~
 11 ~~discharges him at the end of the term of probation~~ JUDICIAL OFFICER
 12 DESIGNATED BY THE PRESIDING JUDGE OF THE COUNTY IN WHICH THE PERSON WAS
 13 ORIGINALLY CONVICTED.

14 B. On proper application, a person who has been discharged from
 15 probation either before or after adoption of this chapter may have any civil
 16 rights ~~which~~ THAT were lost or suspended by the felony conviction restored by
 17 the ~~superior court judge by whom the person was sentenced or the judge's~~
 18 ~~successors in office from~~ JUDICIAL OFFICER DESIGNATED BY THE PRESIDING JUDGE
 19 OF the county in which the person was originally convicted. The clerk of the
 20 superior court shall have the responsibility for processing the application
 21 on request of the person involved or the person's attorney. The ~~superior~~
 22 ~~court~~ APPLICANT shall serve a copy of the application on the county attorney.

23 C. If the person was convicted of a dangerous offense under section
 24 13-704, the person may not file for the restoration of the right to possess
 25 or carry a gun or firearm. If the person was convicted of a serious offense
 26 as defined in section 13-706 the person may not file for the restoration of
 27 the right to possess or carry a gun or firearm for ten years from the date of
 28 his discharge from probation. If the person was convicted of any other
 29 felony offense, the person may not file for the restoration of the right to
 30 possess or carry a gun or firearm for two years from the date of the person's
 31 discharge from probation.

32 Sec. 3. Section 13-906, Arizona Revised Statutes, is amended to read:

33 13-906. Applications by persons discharged from prison

34 A. On proper application, a person who has been convicted of two or
 35 more felonies and who has received an absolute discharge from imprisonment
 36 may have any civil rights ~~which~~ THAT were lost or suspended by his conviction
 37 restored by the ~~superior court judge by whom the person was sentenced or the~~
 38 ~~judge's successors in office from~~ JUDICIAL OFFICER DESIGNATED BY THE
 39 PRESIDING JUDGE OF the county in which the person was originally sentenced.

40 B. A person who is subject to subsection A of this section may file,
 41 no sooner than two years from the date of his absolute discharge, an
 42 application for restoration of civil rights that shall be accompanied by a
 43 certificate of absolute discharge from the director of the state department
 44 of corrections. The clerk of the superior court that sentenced the applicant
 45 shall have the responsibility for processing applications for restoration of

1 civil rights ~~upon~~ ON request of the person involved, the person's attorney or
 2 a representative of the state department of corrections. The ~~superior court~~
 3 APPLICANT shall serve a copy of the application on the county attorney.

4 C. If the person was convicted of a dangerous offense under section
 5 13-704, the person may not file for the restoration of the right to possess
 6 or carry a gun or firearm. If the person was convicted of a serious offense
 7 as defined in section 13-706, the person may not file for the restoration of
 8 the right to possess or carry a gun or firearm for ten years from the date of
 9 his absolute discharge from imprisonment. If the person was convicted of any
 10 other felony offense, the person may not file for the restoration of the
 11 right to possess or carry a gun or firearm for two years from the date of the
 12 person's absolute discharge from imprisonment.

13 Sec. 4. Section 13-908, Arizona Revised Statutes, is amended to read:

14 13-908. Restoration of civil rights in the discretion of the
 15 superior court judge

16 Except as provided in section 13-912, the restoration of civil rights
 17 and the dismissal of the accusation or information under the provisions of
 18 this chapter shall be in the discretion of the ~~superior court judge by whom~~
 19 ~~the person was sentenced or his successor in office~~ JUDICIAL OFFICER
 20 DESIGNATED BY THE PRESIDING JUDGE OF THE COUNTY IN WHICH THE PERSON WAS
 21 ORIGINALLY CONVICTED.

22 Sec. 5. Section 13-909, Arizona Revised Statutes, is amended to read:

23 13-909. Restoration of civil rights; persons completing
 24 probation for federal offense

25 A. A person who has been convicted of two or more felonies and whose
 26 period of probation has been completed may have any civil rights ~~which~~ THAT
 27 were lost or suspended by the felony conviction in a United States district
 28 court restored by the presiding judge of the superior court in the county in
 29 which the person now resides OR BY A JUDICIAL OFFICER DESIGNATED BY THAT
 30 PRESIDING JUDGE, on filing of an affidavit of discharge from the judge who
 31 discharged him at the end of the term of probation.

32 B. On proper application, a person who has been discharged from
 33 probation either before or after adoption of this chapter may have any civil
 34 rights ~~which~~ THAT were lost or suspended by the felony conviction restored by
 35 an application filed with the clerk of the superior court in the county in
 36 which the person now resides. The clerk of the superior court shall process
 37 the application on request of the person involved or the person's attorney.

38 C. If the person was convicted of an offense ~~which~~ THAT would be a
 39 dangerous offense under section 13-704, the person may not file for the
 40 restoration of the right to possess or carry a gun or firearm. If the person
 41 was convicted of an offense ~~which~~ THAT would be a serious offense as defined
 42 in section 13-706 the person may not file for the restoration of the right to
 43 possess or carry a gun or firearm for ten years from the date of the person's
 44 discharge from probation. If the person was convicted of any other felony
 45 offense, the person may not file for the restoration of his right to possess

1 or carry a gun or firearm for two years from the date of his discharge from
2 probation.

3 Sec. 6. Section 13-910, Arizona Revised Statutes, is amended to read:

4 13-910. Applications by persons discharged from federal prison

5 A. On proper application, a person who has been convicted of two or
6 more felonies and who has received an absolute discharge from imprisonment in
7 a federal prison may have any civil rights ~~which~~ THAT were lost or suspended
8 by the conviction restored by the presiding judge of the superior court in
9 the county in which the person now resides OR BY A JUDICIAL OFFICER
10 DESIGNATED BY THAT PRESIDING JUDGE.

11 B. A person who is subject to subsection A of this section may file,
12 no sooner than two years from the date of his absolute discharge, an
13 application for restoration of civil rights that shall be accompanied by a
14 certificate of absolute discharge from the director of the federal bureau of
15 prisons, unless it is shown to be impossible to obtain such certificate.
16 ~~Such~~ THE application shall be filed with the clerk of the superior court in
17 the county in which the person now resides, and ~~such~~ THE clerk shall be
18 responsible for processing applications for restoration of civil rights ~~upon~~
19 ON request of the person involved or the person's attorney.

20 C. If the person was convicted of an offense ~~which~~ THAT would be a
21 dangerous offense under section 13-704, the person may not file for the
22 restoration of the right to possess or carry a gun or firearm. If the person
23 was convicted of an offense ~~which~~ THAT would be a serious offense as defined
24 in section 13-706, the person may not file for the restoration of the right
25 to possess or carry a gun or firearm for ten years from the date of the
26 person's absolute discharge from imprisonment. If the person was convicted
27 of any other felony offense, the person may not file for the restoration of
28 the right to possess or carry a gun or firearm for two years from the date of
29 the person's absolute discharge from imprisonment.

30 Sec. 7. Section 13-911, Arizona Revised Statutes, is amended to read:

31 13-911. Restoration of civil rights in the discretion of the
32 presiding judge of the superior court

33 The restoration of civil rights under ~~provisions of sections~~ SECTION
34 13-909 or 13-910 is within the discretion of the presiding judge of the
35 superior court in the county in which the person resides OR A JUDICIAL
36 OFFICER DESIGNATED BY THAT PRESIDING JUDGE.

37 Sec. 8. Section 13-912.01, Arizona Revised Statutes, is amended to
38 read:

39 13-912.01. Restoration of civil rights; persons adjudicated
40 delinquent

41 A. A person who was adjudicated delinquent and whose period of
42 probation has been completed may have the right to possess or carry a gun or
43 firearm restored by the ~~judge who discharges the person at the end of the~~
44 ~~person's term of probation~~ JUDICIAL OFFICER DESIGNATED BY THE PRESIDING JUDGE
45 OF THE COUNTY IN WHICH THE PERSON WAS ORIGINALLY CONVICTED.

1 B. A person who was adjudicated delinquent and who has been discharged
 2 from probation, on proper application, may have the right to carry or possess
 3 a gun or firearm restored by the ~~judge of the juvenile court~~ JUDICIAL OFFICER
 4 DESIGNATED BY THE PRESIDING JUDGE in the county where the person was
 5 adjudicated delinquent ~~or the judge's successors~~. The clerk of the superior
 6 court shall process the application on the request of the person involved or
 7 the person's attorney. The applicant shall serve a copy of the application
 8 on the county attorney.

9 C. If the person's adjudication was for a dangerous offense under
 10 section 13-704, a serious offense as defined in section 13-706, burglary in
 11 the first degree, burglary in the second degree or arson, the person may not
 12 file for the restoration of the right to possess or carry a gun or firearm
 13 until the person attains thirty years of age. If the person's adjudication
 14 was for any other felony offense, the person may not file for the restoration
 15 of the right to possess or carry a gun or firearm for two years from the date
 16 of the person's discharge.

17 Sec. 9. Title 13, chapter 9, Arizona Revised Statutes, is amended by
 18 adding section 13-912.02, to read:

19 13-912.02. Restoration of civil rights application fee

20 A. ON THE FILING OF AN APPLICATION FOR RESTORATION OF CIVIL RIGHTS
 21 PURSUANT TO SECTION 13-905, 13-906, 13-908, 13-909, 13-910, 13-911 OR
 22 13-912.01, THE CLERK OF THE SUPERIOR COURT SHALL CHARGE AND COLLECT A FEE
 23 EQUAL TO THE AMOUNT PRESCRIBED IN SECTION 12-284, SUBSECTION A FOR AN INITIAL
 24 CASE FILING.

25 B. THE CLERK OF THE SUPERIOR COURT SHALL TRANSMIT ALL MONIES COLLECTED
 26 PURSUANT TO THIS SECTION TO THE COUNTY TREASURER FOR DISTRIBUTION OR DEPOSIT
 27 PURSUANT TO SECTION 12-284.03.

28 Sec. 10. Emergency

29 This act is an emergency measure that is necessary to preserve the
 30 public peace, health or safety and is operative immediately as provided by
 31 law.